

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

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05/21/2001

CLERK OF THE COURT
FORM V000

GEORGE A. SCHADE, JR., SPECIAL
MASTER

T. A. Pavia
Deputy

CONTESTED CASE NO. W1-11-605

FILED: MAY 29 2001

IN RE THE GENERAL ADJUDICATION OF
ALL RIGHTS TO USE WATER IN THE
GILA RIVER SYSTEM AND SOURCE

IN RE: FORT HUACHUCA

1:30 p.m. This is the date and time set for a Scheduling Conference (Proceeding No. SP-33). Present are Janet L. Ronald and Donald J. Gross for ADWR, R. Lee Leininger for U.S. Dept of Justice, John T. Hestand for Gila River Indian Community, M. Byron Lewis and Mark A. McGinnis for Salt River Project, Douglas Kupel for City of Phoenix, William H. Anger for Cities of Mesa, Chandler, Scottsdale and Glendale, William P. Sullivan for Bella Vista Group, Lauren J. Caster for ASARCO Inc., Cynthia M. Chandley for Phelps Dodge Corp., Robert B. Hoffman for BHP Copper, Inc., Graham M. Clark, Jr. for Arizona Attorney General, Steven Lynn Wene for Rio Rico Properties, Paloma and City of Safford, Jennele Morris O'Hair for City of Sierra Vista, George

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W. Reyes and Mike Shaughnessey for U.S. Dept. of Army, and Michael J. Cianci, Jr. for U.S. Dept. of Air Force. Also present is Kathy Dolge, Judicial Assistant.

No court reporter is present. These proceedings were audio taped. Information may be obtained from Kathy Dolge regarding these audio tapes.

The parties were identified by the Court.

Ms. O'Hair representing the City of Sierra Vista requested permission to file a motion to intervene. A filing date of June 8, 2001 was agreeable.

Mr. Sullivan representing the Bella Vista group of objectors requested time to file a memorandum identifying the individual objectors and clarifying their relationships. Changes in the composition of this group have occurred since the Final San Pedro HSR was published. A filing date of June 30, 2001 was requested.

The Court and the parties discussed the process of updating watershed file reports in light of Judge Bolton's September 28, 2000 minute entry order. Mrs. Ronald representing ADWR stated that ADWR does not have the resources to begin updating Fort Huachuca's watershed file reports until ADWR completes the HSR for the Gila River Indian Community (GRIC), which is anticipated to be by the end of this year. Updating Fort Huachuca's watershed file reports is expected to take three to six months, and may not begin until after spring 2002.

The Court and the parties discussed whether ADWR needs a ruling on *de minimis* uses before it can proceed to update Fort Huachuca's watershed file reports after the U.S. files its

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amended claims. Mr. Leininger stated that Fort Huachuca's claims are based on federal reserved rights and not on state law, and at this time, there are no small domestic uses. The Court suggested that ADWR review this issue in conjunction with the amended claims and determine if a ruling on *de minimis* uses is required for ADWR to update Fort Huachuca's watershed file reports.

Mr. Lewis representing Salt River Project suggested that deadlines be established for the U.S. to file amended claims and for ADWR to prepare the updated watershed file reports. Mr. Leininger stated that the amended claims could be filed by November 30, 2001. Mrs. Ronald stated that ADWR can not commit to a specific time in spring 2002 to prepare the updated watershed file reports for Fort Huachuca. Mr. Lewis withdrew his suggestion that a deadline be established in early 2002 for ADWR to submit the updated reports. Mr. Lewis suggested that goals be set and another conference be scheduled in early 2002 to review the status of this case.

The Court stated that ADWR, after reviewing the amended claims and possibly having completed the GRIC HSR, could submit a status report in January 2002, informing the Court and the parties of the anticipated dates for starting and completing the process of updating Fort Huachuca's watershed file reports. Thereafter, a conference could be scheduled.

Mr. Sullivan, Mr. Leininger and Mrs. Ronald discussed the nature of the expected amended claims and what information ADWR may include in its report. Mr. Leininger stated that Fort Huachuca will not be asking for more water, but the amendments may include priority dates, sources and quantities of water. Mrs. Ronald stated that the updated watershed file reports may address uses, amounts, sources, and modeling.

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Mr. Clark of the Attorney General's Office requested leave until June 8, 2001, to file a motion to intervene.

Mr. Lewis asked that a status conference be scheduled in January 2002 after ADWR files its status report. The Court indicated that it wishes to review ADWR's report and the status of other ongoing proceedings before determining when to schedule a conference in this matter.

Mr. Sullivan suggested that the U. S. be required to disclose the documents supporting its amended claims after the U. S. files the claims on November 30, 2001. Messrs. Leininger and Lewis stated that disclosure should not commence until after objections are filed to the updated watershed file reports. The Court stated that it would be more appropriate and efficient for the disclosure process to begin after objections are filed, and this issue can be addressed at the next conference.

Mr. Leininger inquired if a preliminary report of Fort Huachuca's updated watershed file reports will be prepared pursuant to A.R.S. § 45-256(H). Mrs. Ronald stated that the superior court previously determined that in cases such as this contested case, ADWR would prepare updated watershed file reports, and a preliminary report of the updates would not be issued. Mrs. Ronald stated that the following procedure was contemplated:

1. Fort Huachuca files amended claims.
2. ADWR updates the watershed file reports.
3. New or supplemental objections are filed.
4. Disclosure deadlines are set.
5. Hearing is scheduled.

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Ms. O'Hair inquired about the feasibility of parties appearing telephonically in future conferences. The Court informed Ms. O'Hair that it would consider that request for each conference.

Based on the discussions held,

IT IS ORDERED:

1. The City of Sierra Vista and the State of Arizona are granted until June 8, 2001 to file motions to intervene.

2. The Bella Vista group of objectors is granted until June 30, 2001 to file a memorandum clarifying and identifying the objectors.

3. The U.S. Dept. of Justice will have until November 30, 2001 to file amended statements of claimant and other amendments to its claims for Fort Huachuca.

4. ADWR shall file a report on or before January 31, 2002 informing the Court as to the status of the Gila River Indian Community HSR and the anticipated start and completion dates for updating Fort Huachuca's watershed file reports.

2:40 p.m. Matter concludes.

A copy of this minute entry is mailed to all parties on the Court-approved W1-11-605 mailing list dated 4-12-2001.